

REGULATION 1993-7

BONDED ALL-TERRAIN VEHICLE REGULATION

Pursuant to authority given the Commissioner of Revenues by subsection (b) of section 20 of Act 142 of 1949 [Ark. Code Ann. §27-14-403(b)], after the effective date of this regulation, cash bonds, corporate surety bonds, certificates of deposit with assignment, irrevocable letters of credit and personal bonds which meet the requirements of this regulation may be accepted under those circumstances where a bond is authorized under the provisions of Act 1308 of 1993 [Ark. Code Ann. § 27-20-202].

(1) Definitions:

- (A) “Bonds” means any cash bond, corporate surety bond, certificate of deposit with an assignment, or irrevocable letter of credit or personal bond approved by the Commissioner and given for the purpose of indemnifying any prior owner or lienholder and any subsequent purchaser of an all-terrain vehicle, or person acquiring any security interest in it, and their respective successors in interest, heirs, or assigns, against any expense, loss or damage, including reasonable attorney’s fees, by reason of the issuance of the certificate of title to the all-terrain vehicle or on account of defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the all-terrain vehicle.
- (B) “Bonded Title” means a certificate of title for a three (3) or four (4) wheeled all-terrain cycle issued upon the condition that a bond is filed with the Commissioner of Revenues pursuant to Act 1308 of 1993 [Ark. Code Ann. §27-20-202].
- (C) “Insurer” means any person with a valid certificate of authority issued by the Arkansas Insurance Commissioner which certificate grants the authority to become surety on contracts in the State of Arkansas, or any other guarantor approved by the Commissioner of Revenues.
- (D) “All-terrain vehicle” means any three (3) or four (4) wheeled all-terrain vehicle of a type required to be registered and titled in Arkansas, and which is in the possession of and legally controlled by the applicant for bonded title. This definition shall specifically exclude the following:
 - (i) All-terrain Vehicles for which a person holds a storage or mechanic’s lien under the provisions of Act 1000 of 1993, [Arkansas Code Annotated §27-50-1201, et seq.], or Arkansas Code Annotated §18-45-201, et seq.;
 - (ii) Stolen all-terrain vehicles;
 - (iii) All-terrain Vehicles involved in ownership litigation.
- (E) “Statement of fact” means a form prescribed by the Commissioner, to be completed by the applicant for bonded title and filed with the Commissioner prior to the filing of a

- (F) bond, so that a determination can be made as to the eligibility of the applicant for issuance of a bonded title.
 - (G) “Letter of approval” means a letter issued by the Commissioner to the applicant for bonded title granting approval to file a bond and apply for registration and issuance of a bonded title, and establishing the amount of the bond to be filed.
- (2) After the effective date of this regulation, any bond filed pursuant to Act 1308 of 1993 [Ark. Code Ann. §27-20-202] must guarantee payment, for a period of three(3) years from its effective date, to any prior owner or lienholder and any subsequent purchaser of an all-terrain vehicle, or person acquiring any security interest in it, and their respective successors in interest, heirs, or assigns, against any expense, loss or damage, including reasonable attorney’s fees, by reason of the issuance of the certificate of title to the all-terrain vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the all-terrain vehicle.
- (3) A bond filed pursuant to Act 1308 of 1993 [Ark. Code Ann. §27-20-202] shall not be accepted unless it is a cash bond, corporate surety bond, certificate of deposit with assignment, or an irrevocable letter of credit or personal bond filed with the Commissioner within thirty (30) days from its effective date, for an amount equal to one and one half (1½) times the value of the all-terrain vehicle as determined by the Commissioner, and meets the following requirements:

(A) **Cash Bond.**

A cash bond shall:

- (i) be cash in U.S. Currency;
- (ii) be delivered to the Commissioner for a period of three (3) years, and accompanied by:
 - (a) an application for registration to the all-terrain vehicle signed by the owner;
 - (b) a letter from the Commissioner granting authorization to apply a bonded title;
 - (c) any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle;
 - (d) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(B) **Corporate Surety Bond**

A corporate surety bond shall:

- (i) be on forms approved by the Commissioner;
- (ii) be issued by an insurer;
- (iii) be irrevocable for a period three (3) years;
- (iv) be signed by the all-terrain vehicle owner (applicant for bonded title to an all-terrain vehicle), and payable to the State of Arkansas upon presentation of a judgement issued by a court of competent jurisdiction as a result of the issuance of a bonded title;
- (v) be signed by the insurer or its licensed agent or broker with power of attorney to act on behalf of the insurer and countersigned as otherwise required by law;
- (vi) be delivered to the Commissioner, and accompanied by:
 - (a) an application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain vehicle owner;
 - (b) a letter from the Commissioner granting authorization to apply for a bonded title;
 - (c) the original power of attorney of the person executing on the behalf of the insurer, if applicable;
 - (d) any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle;
 - (e) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(C) Certificate of Deposit with Assignment.

- (i) The certificate of deposit assignment shall be on forms approved by the commissioner.
- (ii) The certificate of deposit shall:
 - (a) be signed by the assignor;
 - (a) be issued by a bank or savings and loan;
 - (b) be irrevocable for a period three(3) years.
- (iii) The assignment shall:

- (a) be signed by the assignor;
 - (b) be acknowledged by the financial institution;
 - (c) contain an irrevocable appointment of the Commissioner which allows him to endorse the certificate of deposit and apply the proceeds to any and all valid claims against the bonded title, as determined by a court of competent jurisdiction;
 - (e) provide the assignment of the certificate of deposit is to be held by the Commissioner for a period of three (3) years from the date of delivery to the Commissioner.
 - (f) provide the year, make, model, all-terrain vehicle identification number and body style of the all-terrain vehicle.
- (iv) The certificate of deposit and assignment shall be delivered to the Commissioner, and accompanied by:
- (a) an application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain vehicle owner;
 - (b) a letter from the Commissioner granting authorization to apply for a bonded title;
 - (c) any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle;
 - (d) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(D) Irrevocable Letter of Credit.

An irrevocable letter of credit shall:

- (i) be in a form as prescribed by the Commissioner
- (ii) be issued by a bank or savings and loan;
- (iii) be an irrevocable letter of credit;
- (iv) be titled or conspicuously state that it is an irrevocable letter of credit;
- (v) state that it may be drawn against by the Commissioner to satisfy any judgement issued by a court of competent jurisdiction as a result of the issuance of a bonded title;

- (vi) be irrevocable for a period of three (3) years from the date it is delivered to the Commissioner;
- (vii) be delivered to the Commissioner, and accompanied by:
 - (a) an application for registration and issuance of a certificate of title to the all-terrain vehicle signed by the all-terrain vehicle owner;
 - (b) a letter from the Commissioner granting authorization to apply for a bonded title;
 - (c) any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to an all-terrain vehicle;
 - (d) the payment of all requisite fees and taxes for the registration and issuance of a certificate of title to an all-terrain vehicle.

(E) **Personal Bond.**

A personal bond shall:

- (i) be on a form approved by the Commissioner;
- (ii) provide the year, make, model, all-terrain vehicle identification number and body style of the all-terrain vehicle;
- (iii) be signed by the applicant for the all-terrain vehicle registration;
- (iv) be signed by at least two (2) persons owning real estate in Arkansas. (each signature must be notarized);
- (v) include the following information for the real estate owned and listed by the persons signing the bond in subpart (iv);
 - (a) a legal description of the real estate;
 - (b) an appraisal done by a certified appraiser within sixty (60) days preceding the application for bonded title; and
 - (c) an abstract for the real estate reflecting all liens, mortgages, or other encumbrances and the outstanding balance owed on each.
- (vi) Provide that the persons signing the bond obligate themselves, jointly and severally, and the real estate listed to satisfy any claim against the bond established by a judgment issued by a court of competent jurisdiction as a result of the issuance of the bonded title.

- (4) Procedure for applying for issuance of a bonded title: When a bonded title transaction is received by a State Revenue Office, the transaction should be examined to ensure that:
- (A) The cash bond, corporate surety bond, certificate of deposit with assignment or irrevocable letter of credit, or personal bond has been issued for an amount equal to or exceeding the amount determined by the Department.
 - (B) The bond is effective for a period of three (3) years from the date of issuance.
 - (C) The application for bonded title has been made within 30 days from the effective date of the bond.
 - (D) An application presented more than 30 days after the effective date of the bond shall not be accepted.
 - (E) The all-terrain vehicle description (year, make, model, all-terrain vehicle identification number, body style) reflected on the application matches the all-terrain vehicle description reflected on the bond.

Executed this 17th day of September, 1993.

Jim Pledger, Director
Arkansas Department of Finance & Administration

Tim Leathers,
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